IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 1ST AUGUST 2007 / 10TH SRAVANA 1929

WP(C).No. 13541 of 2007(K)

PETITIONERS:
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1. K.V.SUBRAMANIAN, S/O. VELADYUDHAN,
AGED 40 YEARS, KODOKKI HOUSE, NADUVILKKARA P.O.,
VADANAPPALLY VILLAGE, CHAVAKKADU TALUK, THRISSUR.
LICENSEE T.S.NO.18/2007-08, CHATHANGOTTUPURAM,
MALAPPURAM.

2. I.S.VENUGOPAL, S/O. SUDARSHAN,
AGED 32 YEARS, AITHIKKAL VEETTIL, THRITHALLOOR P.O
THRITHALLOOR VILLAGE, CHAVAKKAD TALUK, THRISSUR.

BY ADV. SRI.SHAJI P.CHALY

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO HOME, SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE DEPUTY SUPERINTENDENT OF POLICE,
PERINTHALMANNA, MALAPPURAM DISTRICT.

3. THE CIRCLE INSPECTOR OF POLICE,
VANDOOR POLICE STATION, MALAPPURAM.

4. SUB INSPECTOR OF POLICE,
VANDOOR POLICE STATION, MALAPPURAM.

5. P.K.BALAKRISHNAN, S/O. RAVUNNI NAIR,
SURABHI, CHERIPARAMBU, CHATHANGOTTUPURAM.

6. V.M.KUNJUMOIDEEN HAJI,
S/O. MOOSA HAJI, VELLOORMADATHIL, CHERIPARAMBU,
CHATHANGOTTUPURAM.

7. P.BHASKARAN, S/O. KUTTIKRISHNAN NAIR,
KRISHNAKRIPA, CHERIPARAMBU, CHATHANGOTTUPURAM P.O.

VIA-WANDOOR, MALAPPURAM DISTRICT.

8. ASSISTANT EXCISE COMMISSIONER,
MALAPPURAM.

ADDL. RESPONDENT:

9. POROOR GRAMA PANCHAYAT, POROOR,
MALAPPURAM DIST., REPRESENTED BY ITS SECRETARY.
(IMPLEADED AS PER ORDER DT. 11.07.07 IN IA NO.9227/07)

BY ADV. SRI.P.VIJAYAKUMAR
SRI.K.M.SATHYANATHA MENON
GOVT. PLEADER SRI.P.A.SALIM.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WPC 13541/2007)

PETITIONERS' EXTS.

EXT.P1 - TRUE COPY OF THE ABKARI LICENCE IN TODDY SHOP T.S.NO.18/06-07 HAVING LICENCE NO.M6/07-08.

EXT.P2 - TRUE COPY OF THE JUDGMENT IN WP(C) 26642/06 DT. 12.12.06.

EXT.P3 - TRUE COPY OF THE ORDER PASSED BY THE EXCISE COMMISSIONER.

EXT.P4 - TRUE COPY OF THE INTERIM ORDER IN WP(C) 6239/07 DATED 23.02.07.

EXT.P5 - TRUE COPY OF THE JUDGMENT IN WP(C) 6239/07 DATED 02.04.07.

EXT.P6 - TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONERS BEFORE RESPONDENTS 2 TO 4.

RESPONDENTS' EXTS.

EXT.R5(A) - TRUE COPY OF THE COMMUNICATION DATED 29.12.05 ISSUED BY THE DISTRICT COLLECTOR.

EXTS.R5B & R5C - TRUE COPIES OF THE NEWSPAPER REPORTS.

EXT.R5D - TRUE COPY OF THE COMMUNICATION DATED 9.6.06 ISSSUED BY THE DISTRICT COLLECTOR.

EXT.R5E AND R5F – TRUE COPIES OF THE REPRESENTATIONS SUBMITTED BEFORE THE DISTRICT COLLECTOR AND EXCISE COMMISSIONER.

EXT.R5G - TRUE COPY OF THE CERTIFICATE ISSUED BY THE DISTRICT PLANNING OFFICER, MALAPPURAM.

EXT.R5H - TRUE COPY OF THE REPORT ISSUED BY PORUR GRAMA PANCHAYAT GIVEN BEFORE THE EXCISE COMMISSIONER.

EXT.R5I - TRUE COPY OF THE JUDGMENT IN WPC 26642/06.

EXT.R5J - TRUE COPY OF THE ORDER OF RELAXATION.

EXT.R5K & EXT.R5L – TRUE COPIES OF THE NEWSPAPER REPORTS APPEARED IN MADHYAMAM AND MALAYALA MANORAMA DAILY DATED 7.3.07 & 12.3.07.

EXT.R5M – TRUE COPY OF THE NESPAPER REPORT APPEARED IN MALAYALA MANORAMA DAILY DATED 28.4.07.

/TRUE COPY/

K. BALAKRISHNAN NAIR &

K.T.SANKARAN, JJ.

W.P.(C) No.13541 of 2007-K

Dated 1st August, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioners are the licensees of toddy shop No.18/07-08 of Kalikavu Excise Range in Malappuram Excise Division. Ext.P1 is the licence. The toddy shop is housed in a building bearing No.P.P.VIII/133. The respondents 5 to 7 object to the functioning of the toddy shop on the ground that it is housed in a building within 35 metres of a scheduled caste colony. This Court has already passed an interim order, granting protection for the running of the shop. The learned Government Pleader submits that on the strength of the interim order protection is extended and the shop is being run.

2. If Ext.P1 is illegal, the aforementioned respondents are free to challenge it. It is pointed out that they have already filed W.P.(C) No.8566/2007 challenging the said licence. As long as Ext.P1 licence is in force, the petitioners are entitled to get protection to run the shop without obstruction from anybody. Of course, those who are

objecting to the running of the shop, can stage peaceful satyagraha or such other demonstrations, but without causing obstruction to the ingress and egress to the shop. The police shall ensure that no unlawful obstruction is offered to the running of the shop by the party respondents or their supporters. The police shall not interfere with the peaceful demonstrations or satyagrahas held against the running of the shop.

The Writ Petition is disposed of as above.

K. BALAKRISHNAN NAIR, JUDGE.

K.T.SANKARAN, JUDGE.

nm.